

**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT**

# February 22, 2001

## DIVISION ONE

B135402      Lanzarotta      (Not for Publication)  
v.  
Ortega et al.

The judgment is affirmed. Ortega and the City are awarded their costs of appeal.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.  
Mallano, J.

B143758 People (Not for Publication)  
v.  
Cortez

The orders revoking probation in case number TA054857 and dismissing the charges in case number VA058934 are reversed, and both causes are remanded to the trial court with directions to set a new date or dates for (1) a probation revocation hearing in case number TA054857 and (2) a trial on the reinstated charges in case number VA058934.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.  
Mallano, J.

DIVISION ONE (Continued)

B140296     People  
              v.  
              Brignac

Filed order modifying opinion. Petition for rehearing is denied. (No change in the judgment)

B146421     Gary Davis, as Governor, etc.     (Not for Publication)  
              v.  
              Superior Court, Los Angeles County  
              (Rosenkrantz, r.p.i.)

We grant the petition. We remand for the trial court to grant the Governor's section 170.6 motion and assign the case to another judge for all purposes. We dissolve our stay order.

Ortega, Acting P.J.

I concur:     Mallano, J.  
I dissent:     Vogel (Miriam A.), J. (Opinion)

B139658     People  
              v.  
              Contreras

Filed order modifying opinion. Petition for rehearing is denied. (No change in the judgment)

DIVISION TWO

Court convened at 9:00 A.M.

Present: Boren, P.J., Nott, J., Cooper, J., Todd, J. and G. Villanueva, Deputy Clerk.

DIVISION TWO (continued)

Each of the following:

B141508 People v. Borrero  
B142365 People v. Hale  
B133798 People v. Cornett  
B139679 People v. Hutchinson  
B139910 People v. Eagle  
B142773 Peters v. Moore & Associates  
B135387 Adomitis v. Margolis  
B141262 People v. Ambos  
B140040 People v. Olivas  
B119462 People v. Hicks  
B141107 People v. Eugene M.  
B140325 People v. Heschong  
B140387 In re Veronia O.  
B142293 In re Jessica B.  
B144303 In re Uriel C.  
B142566 In re Jasmine G.  
B143648 In the Matter of Frankie G.  
B143197 People v. Cooper  
B140029 People v. Ocampo  
B138105 Molina v. Secor  
B120915 People v. Harris

Argument waived, cause submitted.

B144381     People  
              v.  
              Ashley B.

Merits:

Argued by Edward Haggerty for appellant and by Rori Ridley, deputy attorney general, for respondent. Cause submitted.

DIVISION TWO (Continued)

B139355     People  
              v.  
              Johnson

Merits:

Argued by Sandra Uribe for appellant and by Catherine Okawa, deputy attorney general, for respondent. Cause submitted.

B139060     Vermont & 43rd Med Clinic  
              v.  
              Molina Medical Centers

Merits:

Argued by Robert Ericson for appellant and by W. Michael Hartman for respondent. Cause submitted.

B141232     Modern Paint & Body Supply  
              v.  
              State Board of Equalization

Merits:

Argued by Thomas Heller for appellant and by Philip Panitz for respondent. Cause submitted.

B132458     Mozes  
              v.  
              Mozes

Merits:

Argued by Honey Amado for appellant and by Ira Lurvey for respondent. Cause submitted.

Court recessed.

Court reconvened at 1:00 P.M.

Present: Boren, P.J., Nott, J., Cooper, J., Todd, J. and G. Villanueva, Deputy Clerk.

DIVISION TWO (Continued)

February 22, 2001-Continued

B139233      Stellar  
                 v.  
                 Gallatin Medical Corporation

Merits:  
Argued by Angela Walsh for appellant and by Ave Buchwald for respondent. Cause submitted.

B136115      Community Redevelopment Agency Los Angeles  
                 v.  
                 County of Los Angeles

Merits:  
Argued by Lee Rosenthal for appellant and by Thomas Tyrrell, principal deputy county counsel, for respondent. Cause submitted.

B137772      Sullivan  
                 v.  
                 City of Los Angeles

Argument waived, cause submitted.

Boren, P.J. leaves the bench.

B141937      Valencia et al.  
                 v.  
                 Rodriguez et al.

Merits:  
Argued by Barry Orlyn for appellant and by Marc Karlin for respondent. Cause submitted.

## DIVISION TWO (Continued)

B141917      Sosa et al.  
v.  
Ralph's Grocery Company

Merits:  
Argued by Ralph Rogari for appellants and by Gregory Wille for respondent. Cause submitted.

Court adjourned.

DIVISION THREE

B140890      People      (Not for Publication)  
v.  
Alex Freddy Vega

The judgment is modified to reflect presentence custody credit of 1,191 days consisting of 795 days actually served plus 396 days of good time/worktime credit and, as so modified, affirmed. The clerk of the Superior Court shall prepare and forward an amended abstract of judgment to the Department of Corrections.

Klein, P.J.

We concur:   Croskey, J.  
                  Fidler, J. (Assigned)

B142976      People                                  (Not for Publication)  
v.  
Charles Jenkins

The order of wardship is affirmed, except that the case is remanded for the limited purpose of permitting the trial court to comply with Welfare and Institutions Code section 702, and for possible recalculation of appellant's maximum theoretical period of confinement.

Aldrich, J.

We concur:   Croskey, Acting P.J.  
                    Kitching, J.

## DIVISION FOUR

February 22, 2001-Continued

B139210      People  
v.  
Adams

Filed order denying petition for rehearing.

B138694      People  
v.  
Scott

Filed order granting petition for rehearing. Supplemental briefing ordered.

DIVISION FIVE

B146131 People (Not for Publication)  
v.  
Brian R.

The judgment is affirmed.

Grignon, Acting P.J.

We concur:    Armstrong, J.  
                          Godoy Perez, J.

B142994      Los Angeles County, D.C.F.S.      (Not for Publication)  
v.  
Virginia B.

The order denying the section 388 petition and terminating parental rights are affirmed.

Grignon, Acting P.J.

We concur:    Armstrong, J.  
                          Godoy Perez, J.

## DIVISION FIVE (Continued)

B133464      Peck      (Not for Publication)  
v.

February 22, 2001-Continued

University of Southern California

The judgment is affirmed.

Armstrong, J.

We concur: Grignon, Acting P.J.  
Godoy Perez, J.

B137225      People                                      (Not for Publication)  
                 v.  
                 Severin

The judgment is affirmed.

Armstrong, J.

We concur: Turner, P.J.  
Godoy Perez, J.

B139352      People                                      (Not for Publication)  
                 v.  
                 Carmouche

The trial court's order is affirmed.

Armstrong, J.

We concur: Grignon, Acting P.J.  
Godoy Perez, J.



DIVISION SIX

B141900 People v. McMillan (Not for Publication)

The judgment is reversed and remanded for resentencing.

Gilbert, P.J.

We concur: Coffee, J.  
Perren, J.

B140045 People (Not for Publication)  
v.  
Green

The trial court is directed to amend the abstract of judgment to reflect that the restitution fine, in the amount of \$200 a year for each year served in state prison, shall not exceed \$10,000 and is payable to the State Restitution Fund. (section 1202.4, subs.(b)(2) & (e).) The judgment is also modified to impose a parole revocation fine in the same amount pursuant to section 1202.45. The trial court is directed to transmit a certified copy of the amended abstract of judgment to the Department of Corrections. As modified, the judgment is affirmed.

Yegan, J.

We concur: Gilbert, P.J.  
Perren, J.

B140231 People (Not for Publication)  
v.  
Rodriguez

The appeal is dismissed.

Yegan, J.

We concur: Gilbert, P.J.  
Perren, J.

## DIVISION SIX (Continued)

B132667      Operating Engineers Funds, Inc.    (Not for Publication)  
v.  
City of Thousand Oaks

The judgment is affirmed. Appellant shall bear costs on appeal.

Gilbert, P.J.

We concur: Coffee, J.  
Perren, J.

[illegible]

The judgment is affirmed.

Gilbert, P.J.

We concur: Coffee, J.  
Perren, J.

B141488 People (Not for Publication)  
v.  
Ruiz

The judgment is affirmed.

Yegan, J.

We concur: Gilbert, P.J.  
Perren, J.

February 22, 2001-Continued

## DIVISION SIX (Continued)

[illegible]

The judgment is affirmed.

Gilbert, P.J.

We concur: Coffee, J.  
Perren, J.

B144233      People      (Not for Publication)  
v.  
Michael R.

The judgment is affirmed.

Perren, J.

We concur: Gilbert, P.J.  
Coffee, J.

## DIVISION SEVEN

B136476 James (Not for Publication)  
v.  
Board of Trustees of California State Universities

The judgment of the trial court is reversed as to appellant's claim for malicious prosecution. In all other respects, the judgment is affirmed. The parties shall bear their own costs on appeal.

Johnson, J.

I concur: Lillie, P.J.  
I concur in the judgment only: Woods, J.

DIVISION SEVEN (Continued)

B133171      Gilbert and Gernsbacker                      (Certified for Partial Publication)  
v.  
Master Washer & Stamping Co., Inc.

[Note to the Reporter of Decisions: Please omit the material beginning at this point and ending as indicated.] The trial court's June 11, 1999 order is reversed in part, as follows:

1. The portion of the order amending the judgment is reversed,
2. The portion of the order removing Gilbert's motion to fix attorney fees as costs from its calendar as moot is reversed.

The matter is remanded to the trial court with directions to set a new date for hearing on Gilbert's motion to fix attorney fees as costs, and to make a ruling thereon including whether Gilbert is a prevailing party entitled to contractual attorney fees, and the amount, if any, of reasonable attorney fees to which he is entitled. [Note to the Reporter of Decisions: End of omitted material.]

The trial court's June 15, 1999 order denying Gernsbacher's motion to fix attorney fees as costs is reversed and the matter is remanded to the trial court with directions to make a new ruling on Gernsbacher's motion to fix attorney fees as costs, including whether Gernsbacher is a prevailing party entitled to contractual attorney fees, and the amount, if any, of reasonable attorney fees to which he is entitled. The parties shall bear their own costs on appeal.

Johnson, J.

We concur:    Lillie, P.J.  
                     Woods, J.